

App. No. 10/536,590
Advisory Action Dated December 19, 2008

REMARKS

Favorable reconsideration is respectfully requested in view of the above amendments and following remarks. Claim 1 has been amended. The amendment to claim 1 is supported by previous claims 2 and 3 and the original disclosure, for example by page 5, lines 15-28, page 22, line 7 to page 25, line 6 and Figs. 1-4. No new matter has been added. Claims 1, 4-5, 11-28 and 30-32 are pending.

Claim rejections - 35 U.S.C. § 102

Claims 1-5, 11-13, 15, 25-26, 28 and 30-31 are rejected under 35 USC 102(b) as being anticipated by WO 02/078568 (Browning). The rejection is rendered moot, as claim 29, which was not included in this rejection, has been incorporated into claim 1. Applicants do not concede the correctness of the rejection.

Claim rejections - 35 U.S.C. § 102/103

Claims 14 and 32 are rejected under 35 USC 102(b) as being anticipated by or, in the alternative, under 35 USC 103(a) as obvious over Browning. The rejection is rendered moot, as claims 2-3 and 29, which were not included in this rejection, have been incorporated into claim 1. Applicants do not concede the correctness of the rejection.

Claim rejections - 35 U.S.C. § 103

Claims 17-24 are rejected under 35 USC 103(a) as being unpatentable over Browning in view of EP 1 022 031 (Matsuda). The rejection is rendered moot, as claims 2-3 and 29, which were not included in this rejection, have been incorporated into claim 1. Applicants do not concede the correctness of the rejection.

Claim 16 is rejected under 35 USC 103(a) as being unpatentable over Browning in view of US 5854381 (Jurgens). The rejection is rendered moot, as claims 2-3 and 29, which were not included in this rejection, have been incorporated into claim 1. Applicants do not concede the correctness of the rejection.

Claim 27 is rejected under 35 USC 103(a) as being unpatentable over Browning in view of US 4374063 (Consolazio). The rejection is rendered moot, as claims 2-3 and 29, which were not included in this rejection, have been incorporated into claim 1. Applicants do not concede the correctness of the rejection.

Claim 29 is rejected under 35 USC 103(a) as being unpatentable over Browning. Applicants respectfully traverse the rejection.

App. No. 10/536,590

Advisory Action Dated December 19, 2008

Claim 1 requires the reinforcing material and the gelatin film to be integrated due to gelling of gelatin that has infiltrated partially or entirely in an internal part of the of reinforcing material. Claim 1 also requires the reinforcing material to be a warp knitted fabric, and the warp knitted fabric to include a multifilament yarn. Advantageously, the properties of the reinforcing material and the gelatin film required by claim 1 are such that even when the yarns are highly tangled with one another at yarn-intersecting portions, the gelatin film can infiltrate partially or entirely in an internal part of the reinforcing material, thereby providing a medical film with superior tensile strength and yarn threading tension (demonstrated, for example, in Table 2, where the features required by claim 1 provide superior yarn threading tension as compared to medical films with twin knitted fabric as the reinforcing material, regardless of the portion where the nylon suture is engaged; page 39, lines 7-25 of the specification). In addition, the configuration of the medical film required by claim 1 allows the gelatin film to be used after being cut into any desired form or a size and yet retain a sufficient amount of yard threading tension so that the medical film may be applied to any part of the living body (see, e.g., page 3, lines 20-23 of the specification).

The rejection refers to page 12, lines 7-12 and indicates that Browning teaches that the gelatin encapsulates the reinforcing material. However, the reference does not teach or suggest that the reinforcing material and the gelatin film are integrated due to gelling of gelatin that has infiltrated partially or entirely in an internal part of the of reinforcing material as required by claim 1.

In particular, page 12, lines 7-12 of the reference indicates that in a preferred embodiment of their invention having improved handling characteristics, the implant has an absorbable coating, and that preferably, this coating encapsulates the mesh of the surgical implant. Page 12, lines 13-14 of the reference further indicates that alternatively, this coating is applied to at least one face of the mesh. As an example, page 38, line 27 to page 39, line 2 of the reference refers to Figure 8a and indicates that in one embodiment, the absorbable coating 32 comprises a layer of absorbable material applied to one face 34 of the mesh 20, such that the mesh has a first face 34 on which the absorbable material has been applied and a second face 36 on which the absorbable material has not been applied such that the first and second faces 34 and 36 each have different characteristics. Page 38, lines 8-14 of the reference refers to Figure 8b and indicates that in another embodiment, the strands 22 of the

App. No. 10/536,590

Advisory Action Dated December 19, 2008

mesh 20 may be entirely embedded in the absorbable coating 32 such that the outer surface of the mesh 20 is covered entirely of the absorbable coating 32, and that in effect, the entire surgical implant is encased in the absorbable coating as shown in Figure 8b. Page 9, line 29 to page 10, line 1 of the reference further indicates that their surgical implant is comprised of narrow members arranged to be spaced by relatively wide gaps and major spaces, and notes that it is desirable for the mesh to have means for promoting tissue in-growth between the members.

It is clear from this discussion that the reference merely teaches a configuration where the absorbable coating is provided on one or both of the outer surfaces of the mesh, as opposed to infiltrating partially or entirely an internal part of the of mesh. Nothing in the reference teaches or suggests the features of claim 1. Accordingly, claim 1 and the dependent claims therefrom are patentable over the reference for at least these reasons.

The rejection contends that Applicant's arguments are not commensurate in scope with the claims as the claims do not require "superior strength". However, this is an advantage enjoyed when the reinforcing material and the gelatin film are integrated due to gelling of gelatin that has infiltrated partially or entirely in an internal part of the reinforcing material as required by claim 1. As indicated previously, the properties of the reinforcing material and the gelatin film required by claim 1 are such that even when the yarns are highly tangled with one another at yarn-intersecting portions, the gelatin film can infiltrate into areas between the multifilaments so that the reinforcing material and the gelatin film can become integrated with each other, thereby providing a medical film with superior tensile strength and yarn threading tension. Nothing in the reference teaches or suggests the configuration required by claim 1 or the benefits.

App. No. 10/536,590

Advisory Action Dated December 19, 2008

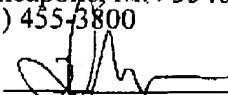
In view of the above, favorable reconsideration in the form of a notice of allowance is requested. Any questions or concerns regarding this communication can be directed to the attorney-of-record, Douglas P. Mueller, Reg. No. 30,300, at (612) 455.3804.

Respectfully submitted,

HAMRE, SCHUMANN, MUELLER &
LARSON, P.C.
P.O. Box 2902
Minneapolis, MN 55402-0902
(612) 455-3800

Dated: January 8, 2009

By:



Douglas P. Mueller
Reg. No. 30,300

